

REMARKS

Claim 22 has been amended and is currently withdrawn, as the claim has been amended to recite SEQ ID NOs, which are not being examined in the instant application due to a restriction requirement. Claim 47 was previously withdrawn for the same reason. Claims 22-24, and 26-31, 33, 36 and 56 are also currently withdrawn as they depend (directly or indirectly) from withdrawn claim 22. Claims 25 and 37 were previously cancelled. Claims 1-21, 32, 34-35, 38-46 and 48-55 and 57 are currently pending in this application. Applicants reserve the right to pursue the withdrawn claims in a divisional or continuation application.

The Examiner has noted that claims 1-21, 32, 38-39, 46, 48-55 are free from the prior art. Applicants respectfully submit that claims 34 and 35 should also be included in this list as these claims depend from claim 32 (which depends from claim 1), which the Examiner has indicated is free from the prior art.

Claim rejections under 35 USC §102

The Examiner has rejected claims 22-23, 30-31, 36, 40-41, and 42 as being anticipated by Mazzulli et al.

Regarding claims 40-41 and 42, Applicants respectfully direct the Examiner's attention to claim 40, which recites that "wherein the signal sequence probe is unlabeled and comprises a double-stranded DNA-RNA hybrid region." (emphasis added). Thus, the signal sequence probe must have a double stranded region that is a DNA-RNA hybrid. Applicants submit that Mazzulli does not teach or suggest a signal sequence probe comprising a double-stranded DNA-RNA hybrid region. As such, Applicants note that Mazzulli does not teach or suggest each and every element of the claim. Accordingly, Applicants respectfully assert that Mazzulli does not anticipate claim 40 or the claims that depend therefrom. Accordingly, Applicants request withdrawal of this ground of rejection.

With regard to claims 22-23, 30-31, and 36, since these claims have been withdrawn, Applicants submit that this ground of rejection is moot. Accordingly, Applicants request withdrawal of this ground of rejection.

Claim rejections under 35 USC §103

The Examiner has rejected claims 24, 26-27, 34-35 and 43-45 under 35 U.S.C. §103(a) as being unpatentable over Mazzulli in view of Brakel.

With regard to claims 43-45, Applicants submit that, as discussed above, Mazzulli does not teach or suggest a signal sequence probe comprising a double-stranded DNA-RNA hybrid region, as required by claim 40 (and all of its dependent claims). Brakel does not cure the deficiency of Mazzulli as it does not suggest or teach a signal sequence probe comprising a double-stranded DNA-RNA hybrid region. As such, Applicants request withdrawal of this ground of rejection.

With regard to claims 34-35, which ultimately depend from claim 1, Applicants assert that since the Examiner has indicated that claim 1 is free from the prior art, Applicants submit that claims 34-35, which have all of the limitations of claim 1 are also free of the prior art. As such, Applicants request withdrawal of this ground of rejection.

With regard to claims 24, and 26-27, since these claims have been withdrawn, Applicants request withdrawal of this ground of rejection as this rejection is now moot.

The Examiner has rejected claims 28-29 and 33 under 35 U.S.C. §103(a) as being unpatentable over Mazzulli in view of Collins. As noted above, since these claims have been withdrawn, Applicants submit that this ground of rejection is moot. Accordingly, Applicants request withdrawal of this ground of rejection.

CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance. If a telephone interview would be of assistance in expediting prosecution of the subject application, Applicants invite the Examiner to telephone the undersigned at the number provided below.

The Commissioner is hereby authorized to charge any fees required or credit any overpayment for this filing to Womble Carlyle Sandridge & Rice, PLLC Deposit Account No. 09-0528.

Respectfully submitted,
Womble Carlyle Sandridge & Rice, PLLC

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